

Misconsin State Senate

Senate Committee on Economic Development Testimony of Senator Jim Sullivan, October 22, 2009

Good morning, and thank you Chairperson Lassa for allowing me to speak on behalf of Senate Bill 291, authorizing the designation of a tax incremental district as distressed and expanding the use of donor tax incremental districts. I also want to thank Representative Louis Molopske, co-author of this legislation for taking the time to discuss this important legislation.

Current law allows municipalities to create Tax Incremental Districts (TIDs), which allow the use of tax dollars to be used for the development of blighted and other designated areas within the community. This law has been a great way for communities to redevelop areas that otherwise would remain undeveloped. Since its enactment in 1975, Tax Incremental Financing (TIF) law has been a successful way to incentivize communities to make improvements that benefit the local citizens.

Though TIF has traditionally brought successful redevelopment, the recent economic downturn has put stress on a number of Wisconsin communities that have outstanding TIDs. Now, there is concern that some communities may default on TID revenue obligations if there is not legislative intervention. There is no precedent for a community defaulting on a TID district, but the consequences could prove very costly to local taxpayers.

Senate Bill 291 creates a process for TIDs created before October 1, 2008 to be designated a distressed TID, extending the life of the TID to 40 years from the date the TID was created. It also allows increment sharing from other TIDs within the community. This will give additional time to communities to amortize TID obligations, and allow municipalities and their creditors opportunities to seek market solutions through restructuring of debt obligations.

While serving on the Wauwatosa Common Council prior to joining the Legislature, I understood the importance of providing communities the incentive to improve blighted areas. TIF districts provide communities redevelopment opportunities that otherwise may go undeveloped. Though the original TIF law was designed to help improve our communities, some communities have been caught off guard by the economic crisis and may have been extended too far. Senate bill 291 is one way the Legislature can help communities avoid a major financial crisis.

Earlier this week, the Assembly companion bill to Senate Bill 291, AB 426, passed the Assembly with overwhelming support by a vote of 81 to 14. The bill was passed with a few technical changes. I have introduced an identical amendment for Senate Bill 291.

Thank you for the opportunity to speak today on Senate Bill 291. I urge your support of this bill.

Statement of Rep. Louis J. Molepske, Jr. on SB 291/AB 426 before the Senate Committee on Economic Development October 22, 2009

1. Background

Tax Incremental Financing (TIF) has been a successful economic development and redevelopment tool for communities in Wisconsin since the TIF law was enacted in 1975 allowing the creation of Tax Incremental Districts (TIDs). In 2008, 389 municipalities – 178 cities, 207 villages and four towns – had TIF districts, with property values totaling \$15.9 billion. TIF allows municipalities to use tax dollars to focus developers towards blighted and designated areas that local governments want developed. Typically, municipalities will upfront the costs associated with a development project by laying streets, updating lighting, razing buildings and making new streetscapes associated with the development. Municipalities issue municipal bonds to pay for the initial parcel improvements.

If a TID's base value of taxable property (prior to redevelopment) is \$100,000.00 and during the life of the TID private or public investment increases the districts value to \$1 million dollars then the district has an incremental value of \$900,000.00 (the base value minus the private and public investments). It is the increment that is used to pay off the initial public investments during the life of the TID. The TID continues to be taxed on the base value of the district until the TID expires at which time the full value of the redevelopment is shared by all taxing jurisdictions.

Unfortunately, the national economic downturn has negatively affected a number of TIDs across the state. Reductions in the value of existing property within TIDs have decreased tax increment collections, and many communities are anticipating further reductions. TIDs experiencing a decline in increment collection may be unable to meet financial obligations that they have already incurred, and in the most extreme cases, could lead to default on debt obligations.

II. Current Law

The Department of Revenue authorizes the allocation of the tax increments until the TID terminates or, generally, 20 years, 23 years, or 27 years after the TID is created. Under current law the life of the TID may be extended and the size of the district may be expanded to suit a local unit of government and developer's particular development needs. Under current law, the local unit of government makes a decision to create and change a TID by a vote of its elected representatives. A local unit of government has to make a determination if creating jobs through this development tool is right for them and their taxpayers.

III. Problem

The League of Wisconsin Municipalities, I believe, summed it up by saying, "TIDs experiencing a decline in increment collection, or the failure of projected increment to materialize, may be unable to meet financial obligations that they have already incurred. In most cases, these financial obligations contain provisions that would require any debt service shortfalls to be assumed by the general taxpayer. This additional burden on taxpayers could be significant, and in the most extreme cases, could lead to a default on TID revenue obligations (Community Development Authority Lease Revenue Bonds and similar revenue backed securities). There is no precedent for a default of a Wisconsin municipal obligation and the impacts would be far ranging. In addition to the immediate concerns of investors not being repaid (many of these investors being individual Wisconsin residents and community banks), a default would increase the future cost of credit for all municipalities, may make credit entirely unavailable for some communities, could stifle future economic development, and would lead to protracted and costly litigation for the parties directly involved. In the case of very small municipalities with limited financial resources, the prospect of a default and the subsequent cost of litigation could also present the real possibility of a municipality seeking bankruptcy protection; another circumstance without precedent in the State."

Obviously, like a homeowner that is having trouble paying their mortgage and facing foreclosure, the public has an interest to promote refinancing of debt to prevent foreclosures and in the case of extending the life of a distressed TID to prevent a default in a municipal payment.

The changes included in AB 426 would provide the opportunity for municipalities and their creditors to seek market solutions through restructuring of debt obligations as a first remedy, reducing the potential for a default situation.

IV. AB 426

This legislation does the following:

- Creates a process for TIDs created before October 1, 2008 to be designated by local units of government as distressed;
- The local unit of government must adopt a resolution and hold a public hearing whereby testimony asserts that a project's costs incurred on the TID exceed the expected revenues received during the life of the TID;
- A joint review board shall meet after the passage of a resolution designating a TID as
 distressed to either approve and disapprove of the findings presented in the resolution;
- The Department of Revenue would certify the designation of a distressed TID and notify all overlying taxing jurisdictions of the certification;
- a TID's life may be expanded and receive tax increments, and donor TID contributions up to 40 years from the date the TID was created;
- a distressed TID must terminate upon receiving its projects costs or 40 years after it was created, which ever comes first;

- a donor TID must terminate upon the earlier of the distressed TID's termination or 40 year after the donor TID is created;
- a distressed mixed-use or industrial TID may also receive tax increments from a donor TID;
- the additional time to amortize the TID's obligations allows municipalities and their creditors opportunities to seek market solutions through restructuring of debt obligations.

The Assembly adopted its Jobs, the Economy and Small Business Committee's changes on October 20^{th} on a vote of 81-14. AA 1 to AB 426 does the following:

- 1. Provides that a TID may not be designated as distressed unless the planning commission amends the TID's project plan to reflect the TID's distressed status.
- 2. Requires additional information to be included in the notice of the public hearing on designation of a TID as distressed.
- 3. Specifies that the joint review board must take action on a resolution to designate a TID as distressed within 30 days after receiving the resolution and other required information from the clerk of the local legislative body.
- 4. Makes a technical change to clarify the time period during which a donor TID may provide tax increments to a distressed TID.
- 5. Authorizes a joint review board to ask the Department of Revenue (DOR) to review the data used by the local legislative body in adopting a resolution to designate a TID as distressed.

Thank you very much for your consideration of this proposal.

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Sincerely,

Louis J. Molepske, Jr. State Representative

71st Assembly District





October 22, 2009

Wisconsin Senate Committee on Economic Development

RE: Support for Senate Bill 291

Dear Committee Members,

I would like to testify on behalf of Ehlers and the Wisconsin Economic Development Association of which I am a member.

Ehlers is an independent public financial advisory firm providing financial advisory services (including bond placement and Tax Increment Consulting) for nearly 300 local units of government in Wisconsin.

The national economic downturn has negatively affected a number of Tax Incremental Districts (TIDs) across the state, with the potential to affect many more. Reductions in the value of existing property within TIDs to reflect market conditions have decreased tax increment collections, and many communities are anticipating further reductions in the next valuation cycle. Some projects within TIDs have also experienced foreclosures that have or are expected to result in development projects being entirely removed from the tax rolls, further exacerbating the situation. Finally, many economic development projects that were projected to positively contribute to TID increment generation have been delayed or withdrawn due to diminished demand combined with severely restricted credit availability for developers.

TIDs experiencing a decline in increment collection, or the failure of projected increment to materialize, may be unable to meet financial obligations that they have already incurred. In most cases, these financial obligations contain provisions that would require any debt service shortfalls to be assumed by the general taxpayer. This additional burden on taxpayers could be significant, and in the most extreme cases, could lead to a default on TID revenue obligations (Community Development Authority Lease Revenue Bonds and similar revenue backed securities). A default of a Wisconsin municipal obligation and the resulting impacts would be far ranging. In addition to the immediate concerns of investors not being repaid (many of these investors being individual Wisconsin residents and community banks), a default would increase the future cost of credit for all municipalities, may make credit entirely unavailable for some communities, could stifle future economic development, and would lead to protracted and costly litigation for the parties directly involved. In the case of very small municipalities with limited financial resources, the prospect of a default and the subsequent cost of litigation could also present the real possibility of a municipality seeking bankruptcy protection; another circumstance without precedent in the State.



www.ehlers-inc.com

In some cases, the restructuring of existing debt obligations to match diminished increment collections is a possible solution. <u>To facilitate this, however, certain revisions will be needed to the TID law for the benefit of "distressed" TIDs</u>.

We believe SB-291 will address the problems identified above and includes these key provisions:

SB 291 FOR DISTRESSED TIDs

- Bill would create special statutory category of "distressed tax incremental districts" under Section 66.1105,
 Wis. Stats.
 - -- Limited to TIDs created by the local governing body before January 1, 2008.
 - -- TIDs must demonstrate a gap between TID revenues generated and the debt service on obligations issued to finance TID project costs.
 - Gap must be certified by Municipal Clerk.
 - -- A public hearing must be held and the modification would need to be approved by the Joint Review Board.
- Extend maximum life of such TIDs to 40 years to allow additional time to amortize TID obligations (but without any extension of the expenditure period).
- Expand revenue-sharing/pooling opportunities for such TIDs.
 - -- Authorize donor TID to have a life which matches the recipient TID (but in no case longer than 40 years).
 - -- Authorize distressed TIDs which are industrial or mixed-use TIDs to be recipients of sharing/pooling amendments.
- Prohibit project plan amendments which would add to project costs of such TIDs.

The foregoing changes would provide the opportunity for municipalities and their creditors to seek market solutions through restructuring of debt obligations as a first remedy, reducing the potential for a default situation. In light of the present extraordinary economic circumstances, we believe strongly that these revisions would be in the best interests of the State, local taxing jurisdictions, their taxpayers and bond holders.

This legislation fortunately will NOT be needed by a majority of Wisconsin Communities with TID's, however it will definitely inure to the benefit of ALL communities in that the prevention of default on public debt in Wisconsin will maintain the strength of the capital markets for ALL participants.

Please consider your support for this important legislation.

Very Truly Yours

Michael C. Harrigan, CIPFA

Chairman / Sr. Financial Advisor



Wisconsin Economic Development Association Inc.

TO: Members, Senate Economic Development Committee

FROM: Amy L. Boyer, on behalf of

Wisconsin Economic Development Association

DATE: October 22, 2009

RE: Support for Senate Bill 291 – Distressed TID's

On behalf of the Wisconsin Economic Development Association (WEDA), a statewide organization of more than 450 economic development professionals, we strongly urge you to support Senate Bill 291 relating to distressed tax incremental financing districts.

While tax incremental financing is one of the most effective economic development tools available to municipalities, the current economic downturn has negatively impacted some tax incremental districts (TIDs) within the state due to reductions in property values within existing TIDs, which have led to decreased tax collections within those districts. TIDs experiencing difficulties or shortfalls in increment collection may be unable to meet financial obligations that they have already incurred.

Senate Bill 291 simply provides municipalities a tool in which they can declare a TID as "distressed" and allow for contributions from a donor TID for up to 40 years after the original distressed TID was created. Under this bill, after the under-performing TID is declared as "distressed," that TID may not amend its project plan, incur any additional project costs or add territory. Also, a distressed TID must terminate whenever all of its project costs have been paid off.

This bill simply allows a municipality, after consideration by its Joint Review Board, to allow for a struggling TID to seek an alternative solution. Its narrow application allows a municipality to alleviate a potential burden to taxpayers by allowing a successful TID to help a struggling TID avoid default on TID revenue obligations.

We encourage you to support SB 291 and the vision of the bill's authors to continue to help Wisconsin maintain its status as a great place to create and retain jobs in Wisconsin.

Please feel free to contact me at boyer@hamilton-consulting.com or 608-258-9506.

Thank you.



WISCONSIN STATE SENATE DALE W. SCHULTZ

To: Members of the Senate Committee on Economic Development

From: Senator Dale Schultz

Date: October 22, 2009

Re: Senate Bill 291

Attached is a resolution passed by the City of Reedsburg in my district. No one from the city was able to attend today's hearing so they asked me to distribute the resolution to committee members.

Please let me know if you have any questions.

Resolution (Supporting Distressed TIF Proposal)

File No. 3985-09

Whereas, Senator Jim Sullivan (D-Wauwatosa) and Representative Louis Molepske (D-Stevens Point) have proposed, LRB 2026 and LBR 3342, relating to authorizing the designation of financially troubled tax incremental districts (TIDs) as "distressed"; and

Whereas, under current law TIDs have a maximum life of 20, 23 or 27 years; and

Whereas, the proposed legislation would extend the life of a TID, that has been designated as distressed, up to 40 years from the date it was created to allow more time to collect tax increments to pay off the debt; and

Whereas, under current law TIDs may receive tax increments from donors TIDs provided the recipient TID is blighted, in need of rehabilitation, or if the project costs relate to low cost housing or environmental remediation; and

Whereas, the proposed legislation would allow mixed-use and industrial TIDs, that have been designated as distressed, to receive tax increments from donor TIDs.

Whereas, the City of Reedsburg currently has six TIDs, of which two are financially troubled and that would meet the criteria as a distressed TIF; and

Whereas, it has been determined that the financially troubled TIDs could meet their financial obligations if they were designated as distressed TIDs.

Now, Therefore, Be It Resolved, that the Common Council of the City of Reedsburg supports, LRB 2026 and LRB 3342, and hereby urges the Wisconsin State Legislature to approve the proposed legislation.

Carol Held, Mayor

Anna Meister, Clerk - Treasurer

STATE OF WISCONSIN) COUNTY OF SAUK

I hereby certify that the foregoing resolution is a true, correct and complete copy of a resolution duly and regularly passed by the Common Council of the City of Reedsburg on the 28th day of September, 2009 and that said resolution has not been repealed or amended, and is now in full force and effect.

Dated this 29th day of September, 2009.

City Clerk



312 W. Whitewater Street P.O. Box 178 Whitewater, Wisconsin 53190

> www.ci.whitewater.wi.us Telephone: (262)473-0101 Fax: (262)473-0509

October 20, 2009

State of Wisconsin
Senate Committee on Economic Development

Re: Support for Senate Bill 291

Dear Committee Members:

Thank you for the opportunity to submit this letter of support from the City of Whitewater for Senate Bill 291.

The current City of Whitewater Tax Increment Finance (TIF) District #4, which encompasses the Whitewater Business Park, Whitewater University Technology Park and commercial redevelopment areas of our community, would benefit by this proposed legislation. This particular TIF District is distressed and the extension of this district by up to 13 years would allow its project costs to be fully paid off. Let me explain what has occurred with this particular district.

In January of 2007, the City of Whitewater entered into an agreement with a local developer to redevelop a blighted property on the city's east side. The City pledged to invest a little over \$1 million in TIF funding to install the needed infrastructure improvements and in return the developer pledged to construct improvements (a small shopping center to include a much needed grocery store and some commercial out lots) to be property valued at \$8.5 million by 2009. Later in 2007, the City dutifully constructed all of the necessary public infrastructure improvements. To date, no private improvements have been constructed by the developer as required by the redevelopment agreement due primarily to an inability to secure private financing for these improvements.

While the redevelopment agreement stipulates that the developer is responsible for "guaranteeing" the annual property tax payments or payments in-lieu-of-taxes (PILOT) should the private investment not materialize, this developer has indicated that it will not be able to make such guaranteed payments in the future (in 2010 this PILOT will likely exceed \$145,000).

Also within this same TIF District, the district's largest property owner, a large manufacturing firm, recently received a reduced State industrial property assessment that resulted in a \$91,000 back payment from the district. In addition, this reduced assessment will mean an approximate \$45,000 annual reduction in property tax revenues for the remaining life of the Whitewater TID #4 District.

The Whitewater TID #4 was created in 1992 and is scheduled to terminate in 2019. We are concerned that, because of the factors cited above along with decreasing commercial and industrial property values as well as the lack of any appreciable new development within the district, this district will not be self-supporting and will result in additional property taxes for the other property owners of the City. The ability to extend this district another possible 13 years, as this legislation would allow, will greatly assist in negating this possibility. Current market and credit conditions really make this particular TIF District distressed and deserving of consideration under the proposed legislation.

Thank you for your consideration of our request. If you have any questions about Whitewater's strong support for the passage SB-291, please do not hesitate to contact me.

Sincerely,

Kevin M. Brunner City Manager

Cc- State Senator Judy Robson Common Council Members



122 W. Washington Avenue Suite 300 Madison, Wisconsin 53703-2715

608/267-2380 800/991-5502 Fax: 608/267-0645

E-mail: league@lwm-info.org www.lwm-info.org

To:

Senate Committee on Economic Development

From:

Curt Witynski, Assistant Director, League of Wisconsin Municipalities

Date:

October 22, 2009

Re:

Support for SB 291/AB 426, Distressed TID Legislation

The League of Wisconsin Municipalities strongly supports SB 291, establishing a process by which municipalities may designate TIF districts created before October 1, 2008, that are experiencing a cash shortfall due to reductions in value as distressed districts. The total life of such districts may be extended to up to 40 years. The Assembly passed the Assembly companion to SB 291, AB 426, by a vote of 81-14 on October 20.

The national economic downturn has negatively affected more than a few Tax Incremental Districts (TIDs) across the state, with the potential to affect many more. Reductions in the value of existing property within TIDs to reflect market conditions have decreased tax increment collections. Some projects within TIDs have also experienced foreclosures that have or are expected to result in development projects being entirely removed from the tax rolls, further exacerbating the situation. Finally, many economic development projects that were projected to positively contribute to TID increment generation have been delayed or withdrawn due to diminished demand combined with severely restricted credit availability for developers.

TIDs experiencing a decline in increment collection, or the failure of projected increment to materialize, may be unable to meet financial obligations that they have already incurred. In most cases, these financial obligations contain provisions that would require any debt service shortfalls to be assumed by the general taxpayer. This additional burden on taxpayers could be significant, and in the most extreme cases, could lead to a default on TID revenue obligations.

There is no precedent for a default of a Wisconsin municipal obligation and the impacts would be far ranging. In addition to the immediate concerns of investors not being repaid (many of these investors being individual Wisconsin residents and community banks), a default would increase the future cost of credit for all municipalities, may make credit entirely unavailable for some communities, could stifle future economic development, and would lead to protracted and costly litigation for the parties directly involved. In the case of very small municipalities with limited financial resources, the prospect of a default and the subsequent cost of litigation could also present the real possibility of a municipality seeking bankruptcy protection; another circumstance without precedent in the State.

The changes included in SB 291/AB 426 would provide the opportunity and time for municipalities and their creditors to seek market solutions through restructuring of debt obligations as a first remedy, reducing the potential for a default situation.

We urge you to recommend passage of SB 291/AB 426. Thanks for considering our comments.



October 21, 2009

RE: Support Senate Bill 291

Dear Committee Members:

NAIOP Wisconsin, the Commercial Real Estate Development Association, would like to register our support for passage of Senate Bill 291.

NAIOP is the leading organization for developers, owners and related professionals in office, industrial and mixed-use real estate. NAIOP provides unparalleled industry networking and education, and advocates for effective legislation on behalf of our members. NAIOP advances responsible, sustainable development that creates jobs and benefits the communities in which our members work and live.

Nationally, NAIOP has nearly 18,000 members in 58 chapters throughout the United States, Canada and Mexico. Locally, our chapter was chartered in 2003 and currently represents 217 members primarily in southeastern Wisconsin.

Tax Increment Financing has made possible public-private partnerships that have resulted in the generation of hundreds of millions of dollars in new tax base throughout the State. TIF has been, and remains the most potent economic development tool available to Wisconsin communities. While the vast majority of TIF supported projects have been successful, the current economic downturn has resulted in diminished tax increment collections for some TIF districts. In some cases, reductions in available revenues have been severe enough to cause the possibility that debt obligations cannot be repaid.

We believe that the failure of any TIF supported project has the potential to adversely impact the economic development climate within the State. Public perceptions and support for use of TIF would likely be negatively affected, and the ability for communities to raise capital supported by TIF revenues may be SB 291 provides the relief needed for those TIF districts most severely impacted by the recession, and may help avert situations of loan defaults or imposition of significant tax increases that would be needed to make up TIF revenue shortfalls.

We strongly urge the Committee and the Senate to pass this important legislation as soon as possible.

Yours truly,

Chris Korjenk

Christine Korjenek Executive Director NAIOP Wisconsin

Attachment(s): NAIOP Wisconsin Member Companies

DEVELOPMENT ASSOCIATION

Member Companies as of 10-09

WISCONSIN CHAPTER	
Acre Development Group	Mallory Properties
AMCORE Bank	Mandel Group Inc.
Apex Commercial	Marguette University
Arnold & O'Sheridan	Mei & Associates S.C.
Associated Bank N.A.	Michael Best & Friedrich LLP
Bank Mutual	Miron Construction Co. Inc.
BCI Group	MLG Development
Berghammer Corporation	Moegenburg Research
Beyer Construction Incorporated	Mortenson Construction
Breezy Hill Nursery Inc.	MRED Management Inc.
Briohn Building Corporation	NAI MLG Commercial LLC
BSI	National City Bank
C.G. Schmidt	Next Generation Real Estate Inc.
Campbell Construction JD Inc.	Northwestern Investment Management Co.
CB Richard Ellis	Northwestern Mutual Life
CenterPoint Properties	Opus North Corporation
Century21	Outlook Development Group
Chicago Title Insurance Company	Plunkett Raysich Architects
Commercial Property Associates Inc.	Quarles & Brady LLP
Continental Properties Company Inc.	R.A. Smith National Inc.
Cornerstone Community Bank	Racine County Economic Development Corporation
CWS Source	Reinhart Boerner Van Deuren S.C.
Davis & Kuelthau S.C.	RFP Commercial Inc.
Emile Banks & Associates LLC	Riley Construction
Engberg Anderson inc.	Ryan Companies US Inc.
Environmental & Development Solutions Inc.	Schenck Business Solutions
Environmental Systems Inc.	Scherrer Development Group
Eppstein Uhen Architects Inc.	Schroeder Solutions
Faith Technologies	Select Management
First American Title Company	Selzer-Ornst Co.
Foley & Lardner	South Milwaukee Community Development Authority
Forrer Business Interiors	Spectrum Development Group LLC
Gleischman Sumner Company Inc.	Springob Real Estate
GRAEF	Standing Stone Design
Grandbridge Real Estate Capital LLC	STS Consultants Ltd.
Grubb & Ellis Apex Commercial	Terracon
· · · · · · · · · · · · · · · · · · ·	The Boerke Company
	The Bruce Company of WI Inc.
	The Equitable Bank
HSA Commercial	The Geneva Organization



COMMERCIAL REAL ESTATE DEVELOPMENT ASSOCIATION

WISCONSIN CHAPTER

Member Companies as of 10-09

The PrivateBank
The Redmond Company
The Sigma Group
Titan Building Company
TOLD Development Company
Towne Realty Inc.
Trovato Group LLC
U.S. Lawns of Waukesha
University of Wisconsin-Madison
US Bank
Van Buren Management Inc
Velcheck & Finger Roof Consulting and Service
Village of Saukville
VJS Development Group
von Briesen & Roper SC
Votto Investments
Wahlgren-Schwenn Incorporated
Wangard Partners Inc.
Welman Architects Inc.
Welsh Companies
Whyte Hirschboeck Dudek S.C.
Williams Development Corporation
Willow Tree Development
Wipfli LLP
WISPARK LLC